IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINETEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 14702 of 2004

Between:

M/s. Shivadaya Shakti Dal & Oil Mill Sadashivapet, Sangareddy District rep by Managing Partner sri Mahaveer Prasad, S/o Hari Krishna R/o Sadashivapet Saangareddy District

..... PETITIONER

AND

1 The Joint Commissioner (CT), Legal, Office of the Commissioner of

Commercial Taxes, Hyderabad
2 (CTO) Commercial Tax Officer, Sangareddy

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned order dt 13-2-2004 passed by the Joint Commissioner (CT) Legal, as illegal, arbitrary and contrary to the judgment of this Hon'ble High Court reported in 91 S?T.C. Page 168 and 26 APSTJ. Page No. 91 and also contrary to the provisions of A.P.G.S.T Act 1957 and set a side the same consequently direct the second respondent not to take any coercive steps for collection of the disputed penalty proceedings.

Counsel for the Petitioner:MR.KUNUKU DURGAPRASAD, Advocate.

Counsel for the Respondent No.: SPL GP FOR TAXES

The Court at the stage of admission, made the following :

ORDER : (per Sri Bilal Nazki, J)

Heard learned Counsel for the parties. With their consent, the Writ Petition is being disposed of at this stage.

The controversy is that pending an appeal, application for stay was dismissed by the competent authority. We have gone through the record. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of 25% of the disputed penalty. Therefore, we set aside the order of the authority and direct that 25% of the disputed penalty shall be paid by the petitioner within a period of four weeks. For four weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within four weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal.

Writ Petition is disposed of accordingly. No costs.

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(BILAL NAZKI, J)

19th August, 2004.

(S.ANANDA REDDY, J)

ajr

To

1 The Joint Commissioner (CT), Legal, Office of the Commissioner of

Commercial Taxes, Hyderabad
2 The Commercial Tax Officer, Sangareddy

3 Two C.Cs. to the Special GP for Taxes, High Court buildings, Hyderabad

(O.U.T).

4 Two C.D. copies.